



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 22-11]

RIN 1515-AE73

Extension of Import Restrictions Imposed on Certain Archaeological Artifacts and Ethnological Material from Peru

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain categories of archaeological artifacts and ethnological material of the Republic of Peru. The restrictions, which were originally imposed by Treasury Decision (T.D.) 97-50 and last extended by CBP Decision (CBP Dec.) 17-03, are due to expire on June 9, 2022, unless extended. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determinations for extending the import restrictions that previously existed and no cause for suspension exists. Pursuant to the exchange of diplomatic notes to extend the agreement, the import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this further extension through June 8, 2027. CBP-Dec. 17-03 contains the Designated List of archeological artifacts and ethnological material from Peru to which the restrictions apply.

DATES: Effective on June 9, 2022.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings,

Office of Trade, (202) 325–0084, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Julie L. Stoeber, Chief, 1USG Branch, Trade Policy and Programs, Office of Trade, (202) 945-7064, 1USGBranch@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97-446, 19 U.S.C. 2601 *et seq.*, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with the Republic of Peru (Peru) on June 9, 1997, concerning the imposition of import restrictions on archaeological material from the Pre-Hispanic cultures and certain ethnological material from the Colonial period of Peru (the Memorandum of Understanding (MOU) between the United States of America and the Republic of Peru).

On June 11, 1997, the U.S. Customs Service (U.S. Customs and Border Protection's predecessor agency) published Treasury Decision (T.D.) 97–50 in the *Federal Register* (62 FR 31713), which amended § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions and included a list designating the types of archaeological and ethnological material covered by the restrictions. These restrictions continued the protection of archaeological material from the Sipán Archaeological Region forming part of the remains of the Moche culture that were first subject to emergency import restrictions on May 7, 1990 (T.D. 90–37), which were extended on June 27, 1994 (T.D. 94-54).

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of no more than five years if it is determined

that the factors which justified the agreement still pertain and no cause for suspension of the agreement exists. *See* 19 CFR 12.104g(a).

Since the initial final rule was published on June 11, 1997, the import restrictions were subsequently extended four (4) times. First, on June 6, 2002, following the exchange of diplomatic notes, the former U.S. Customs Service published a final rule (T.D. 02–30) in the *Federal Register* (67 FR 38877) to extend the import restrictions for a period of five years. Second, on June 6, 2007, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 07–27) in the *Federal Register* (72 FR 31176) to extend the import restrictions for an additional five-year period. Third, on June 7, 2012, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 12–11) in the *Federal Register* (77 FR 33624) to extend the import restrictions for an additional five-year period. Fourth and lastly, on June 7, 2017, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 17-03) in the *Federal Register* (82 FR 26340) to extend the import restrictions for an additional five-year period through June 8, 2022.

On September 13, 2021, the United States Department of State proposed in the *Federal Register* (86 FR 50931) to extend the MOU between the United States and Peru concerning the import restrictions on certain categories of archaeological and ethnological material from Peru. On March 15, 2022, after consultation with and recommendations by the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Peru continues to be in jeopardy from pillage of certain archeological and ethnological material, and that the import restrictions should be extended for an additional five years. Pursuant to the exchange of diplomatic notes to extend the agreement, the import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this further extension through June 8, 2027.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The restrictions on the importation of archaeological artifacts and ethnological

material are to continue to be in effect through June 8, 2027. Importation of such material from Peru continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by selecting the material for “Peru.”

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury’s authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

Chris Magnus, the Commissioner of CBP, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise,
Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19
CFR part 12), is amended as set forth below:

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for
§ 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of
the United States (HTSUS)), 1624.

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Peru to read as
follows:

§ 12.104g **Specific items or categories designated by agreements or emergency actions.**

(a) * * *

State party	Cultural property				Decision No.
*	*	*	*	*	*
Peru	Archaeological artifacts and ethnological material from Peru				CBP Dec. 22-11
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Robert F. Altneu,
Director,
Regulations & Disclosure Law Division,
Regulations & Rulings, Office of Trade,
U.S. Customs and Border Protection.

Approved:

Thomas C. West Jr.,
Deputy Assistant Secretary of the Treasury for Tax Policy.

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